

Serial No. 09/512,734

Docket No.: 103864.1101

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of

Christopher J. LASHER, et al. : Confirmation No. 5298

Serial No. 09/512,734 : Group Art Unit: 3721

Filed: February 24, 2000 : Examiner: SIPOS, J.

For: Enhanced Drug Dispensing System :
:PETITION UNDER 37 CFR §1.47(a) FOR SUBMISSION OF SUPPLEMENTAL
REISSUE DECLARATION UNDER 37 CFR §1.175(b)Honorable Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

In response to Patent Office Action, dated November 16, 2005, submitted herewith are the following documents for filing in the above-referenced application:

1. A Supplemental Reissue Declaration signed by three of the four inventors under 37 C.F.R. Section 1.175(b) and 37 C.F.R. Sections 1.63-1.64;
2. Proof of Pertinent Facts regarding the non-signing inventor, Michael L. Mahar, including Exhibits;
3. Petition for a 1-month Extension of Time; and
4. Fees, that include:
 - (1) Fee for 1-month extension of time of \$160.00.
 - (2) Fee for Petition Under 37 C.F.R. Section 1.47(a) \$200.00

Serial No. 09/512,734

5. The last known address of Mr. Mahar is:

822 Anthony Drive, Mechanicsburg, PA 17050-2203
Tel: (717) 728-9314

Applicants hereby petition the Commissioner of Patents to accept the above documents in fulfillment of all documents needed to complete the filing requirements, and to accept the application for substantive examination.

Please charge Deposit Account No. 08-0219 in the amount of \$----0.00. To the extent necessary, charge Applicants any shortage fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 08-0219 and please credit any excess fees to such deposit account.

Respectfully submitted,

Wilmer Cutler Pickering Hale and Dorr LLP



Irrah H. Donner
Registration No. 35,120

399 Park Avenue
New York, NY 10022
212 230-8800

Date: 3/2/06

IHD/tes

Reissue Application: 09/512,734

Attorney Docket No. 103864.1101PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of :
Christopher J. LASHER, et al. :
Serial No. 09/512,734 : Group Art Unit: 3721
Filed: February 24, 2000 : Examiner: J. Sipos
For: Enhanced Drug Dispensing System :
:

Supplemental Declaration for Reissue Application

As a below-named inventor, I hereby declare that:

My residence, Post Office Address and Citizenship are as stated below next to my name, and that:

I/We verily believe that I/We am/are the original, first and joint inventor of the invention entitled ENHANCED DRUG DISPENSING SYSTEM, described and claimed in the specification, that I have reviewed and understand the contents of the specification, including the claims, as well as the claims referred to in this declaration.

My original U.S. Patent 5,720,154 which matured from serial number 08/455,402, filed May 31, 1995, and which is a continuation application of application Ser. No. 08/250,435, filed May 27, 1994, is partly inoperative or invalid by reason of claiming less than and/or more than I had the right to claim through error.

The errors include, for example, the omission of broader claims to an operator assisted prescription dispensing system, an operator assisted pharmaceutical dispensing system, an operator assisted prescription dispensing system, a pharmaceutical dispensing system, a prescription article dispensing system, and a method of dispensing pills in a prescription

Reissue Application: 09/512,734

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Every error in the patent which is being corrected in the present reissue application, and which is not covered by any prior oath and/or declaration submitted in this application, arose without any deceptive intent on the part of the applicant and inventors during prosecution of the original application which matured as U.S. Patent No. 5,720,154.

No factual basis is required establishing how the errors occurred under 37 C.F.R. § 1.175.

I/We hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United

Reissue Application: 09/512,734

States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

Michael L. Mahar

Post Office Address:

Residence (City and State):

Citizenship: _____



Christopher J. Lasher

Post Office Address:

65 VALLEY VIEW AVE
RIDGEWOOD, NJ 07450

Date: 12/31/05

Residence (City and State):

LITTLE WOOD NJ

Citizenship: USA

Dennis W. Rice

Post Office Address:

Residence (City and State):

Citizenship: _____

Date:

Michael J. Szesko

Post Office Address:

Date:

Residence (City and State):

Citizenship: _____

Reissue Application: 09/512,734

Attorney Docket No. 103864.1101

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of

Christopher J. LASHER, et al.

Serial No. 09/512,734

Group Art Unit: 3721

Filed: February 24, 2000

Examiner: J. Sipos

For: Enhanced Drug Dispensing System

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Reissue Application: 09/512,734

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I/We hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United

Reissue Application: 09/512,734

States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Michael L. Mahar

Date:

Post Office Address:

Residence (City and State):

Citizenship: _____

Christopher J. Lasher

Date:

Post Office Address:

Residence (City and State):

Citizenship: _____



Dennis W. Rice

Date: 2/20/06

Post Office Address:

5 Blaik Dr.
Flanders, NJ 07836

Residence (City and State):

Flanders, NJ

Citizenship: _____

Michael J. Szesko

Date:

Post Office Address:

Residence (City and State):

Citizenship: _____

02/23/2006 12:53 610-962-1083

NEIGHBORCARE

PAGE 02

Reissue Application: 09/512,734

Attorney Docket No. 103864.1101PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of

Christopher J. LASHER, et al.

Serial No. 09/512,734

Group Art Unit: 3721

Filed: February 24, 2000

Examiner: J. Sipos

For: Enhanced Drug Dispensing System

Supplemental Declaration for Reissue Application

As a below-named inventor, I hereby declare that:

My residence, Post Office Address and Citizenship are as stated below next to my name, and that:

I/We verily believe that I/We am/are the original, first and joint inventor of the invention entitled ENHANCED DRUG DISPENSING SYSTEM, described and claimed in the specification, that I have reviewed and understand the contents of the specification, including the claims, as well as the claims referred to in this declaration.

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The errors include, for example, the omission of broader claims to an operator assisted prescription dispensing system, an operator assisted pharmaceutical dispensing system, an operator assisted prescription dispensing system, a pharmaceutical dispensing system, a prescription article dispensing system, and a method of dispensing pills in a prescription

02/23/2006 12:53 610-962-1083

NEIGHBORCARE

PAGE 03

Reissue Application: 09/512,734

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No factual basis is required establishing how the errors occurred under 37 C.F.R. § 1.175.

I/We hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United

02/23/2006 12:53 610-962-1063

NEIGHBORCARE

PAGE 04

Reissue Application: 09/512,734

States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

Michael L. Mahar
Post Office Address:

Residence (City and State):

Citizenship: _____

Date:

Christopher J. Lasher
Post Office Address:

Residence (City and State):

Citizenship: _____

Date:

Dennis W. Rice
Post Office Address:

Residence (City and State):

Citizenship: _____

Michael J. Szesko
Michael J. Szesko
Post Office Address:
325 Georgia Road
FREEHOLD NEW JERSEY
07728 USA

Date: Feb 17, 2006

Residence (City and State):
FREEHOLD, NEW JERSEY
Citizenship: USA

MAR 02 2006

Docket No.: 103864.1101

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of :
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Serial No. 09/512,734 : Group Art Unit: 3721
Filed: February 24, 2000 : Examiner: SIPOS, J.
For: Enhanced Drug Dispensing System :
:

PROOF OF PERTINENT FACTS IN SUPPORT OF
PETITION UNDER 37 CFR §1.47(a)

Honorable Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Refusal of an inventor to sign a declaration may be overcome by submitting a Petition under 37 CFR Section 1.47(a), a Supplemental Reissue Declaration under 37 C.F.R. Section 1.175(b) and 37 CFR Sections 1.63 and 1.64, proof of pertinent facts, the required fee, and the last known address of the non-signing inventor, according to 37 CFR §1.47(a), as amplified in MPEP Section 409.03 and MPEP Section 409.03(d).

I hereby submit this proof of pertinent facts pursuant to 37 CFR §1.47(a) that one inventor of the referenced application, Michael Mahar, has repeatedly refused to sign the enclosed Supplemental Reissue Declaration of inventorship. Upon information and belief, the following facts of Michael Mahar's conduct pointing to a refusal are as follows:

1. The undersigned has sent Mr. Mahar a copy of the above-referenced Supplemental Reissue Declaration for review, at Mr. Mahar's last known address of:

822 Anthony Drive, Mechanicsburg, PA 17050-2203
Tel: (717) 728-9314

2. The undersigned performed an Internet search using www.411.com (Exhibit attached) for all Mr. Mahar's in Pennsylvania, and received the above address information for Michael Mahar. The undersigned called repeatedly this number on January 9, 2006, regarding the existence of the reissue patent application, and the desire to include Mr. Mahar in the enclosed Supplemental Reissue Declaration.

3. **Exhibit 1.** Letter of January 10, 2005 to Michael Mahar from Irah Donner, enclosing a copy of the Supplemental Reissue Declaration for review, with Federal Express shipping information indicating that the delivery was successful.

4. **Exhibit 2.** Internet printout of listings for Michael Mahar.

5. Based upon the above Exhibits 1-2, the undersigned can only conclude that Mr. Mahar has refused to execute the declaration and/or cannot be found for the currently pending claims. Acceptance of the present application under 37 C.F.R. Section 1.47(a) and 37 C.F.R. Sections 1.63-1.64 is respectfully requested.

6. The undersigned has not ever received any contact or response from Mr. Mahar since January 9, 2006.

7. I hereby declare that the above facts are to the best knowledge of the undersigned.

Respectfully submitted,

Wilmer Cutler Pickering Hale and Dorr LLP



Ifah H. Donner
Registration No. 35,120

399 Park Avenue
New York, NY 10022
212 230-8800

Date: 3/1/06

IHD/tes

WILMERHALE

BY FACSIMILE – (717) 728-9314

January 10, 2006

Irah H. Donner

+1 212 230 8887 (D)

+1 212 339 6868 (B)

irah.donner@wilmerhale.com

Mr. Michael Mahar
822 Anthony Drive
Mechanicsburg, PA 17050-2203

Re: U.S. Patent Application No. 09/512,734
For: Enhanced Drug Dispensing System (EDDS)
Our Reference: 103864.1101 RJI

Dear Mr. Mahar:

We communicated about five years ago at which time I had requested that you review the above referenced reissue patent application. In addition, I requested at that time that you sign the Reissue Declaration, a copy of which is enclosed. As we discussed previously, we represent Medco Health Solutions, Inc. (previously Merck-Medco Managed Care, LLC).

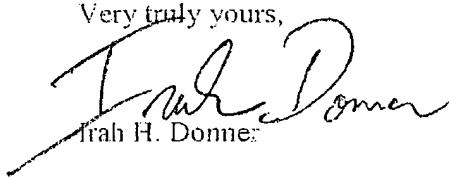
We are pleased to report that all claims 1-72 are now in condition for allowance for this patent application. However, the Patent Office has requested that all inventors sign a Supplemental Declaration. We are enclosing this Supplemental Declaration that has already been signed by the three remaining inventors. We would also be willing to supply you with copies of any other materials relating to this patent application, upon request.

A response is due by February 16, 2006, but we would like to file the fully signed declaration as soon as possible. Please sign the enclosed Declaration on either of the pages 3 that have been supplied, as well as providing your current post office address and city and state of residence, if different.

If we do not hear from you by January 17, 2006, we will assume that you are not interested in cooperating with us.

If you have any questions, please do not hesitate to call.

Very truly yours,


Irah H. Donner

IHD/tes

Wilmer Cutler Pickering Hale and Dorr LLP, 399 Park Avenue, New York, New York 10022
Baltimore Beijing Berlin Boston Brussels London Munich New York Northern Virginia Oxford Palo Alto Waltham Washington
USIDOC5 546325v1

Reissue Application: 09/512,734

Attorney Docket No. 103864.1101**RECEIVED
CENTRAL FAX CENTER****PATENT****MAR 02 2006****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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Reissue Application: 09/512,734

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Date:

Michael L. Mahar

Post Office Address:

Residence (City and State):

Citizenship: _____

Date:

Christopher J. Lasher

Post Office Address:

Residence (City and State):

Citizenship: _____

Date:

Dennis W. Rice

Post Office Address:

Residence (City and State):

Citizenship: _____

Date:

Michael J. Szesko

Post Office Address:

Residence (City and State):

Citizenship: _____

411.COM MYinfo | AddressBook Lo

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WHITE PAGES YELLOW PAGES REVERSE PHONE REVERSE ADDRESS AREA CODES ZIP CODES N
INTERNATIONAL DIRECTORIES | BATCH PEOPLE SEARCHES | AUTOMATE PEOPLE LOOKUPS

MYinfo Get More from WhitePages! ONE FREE MONTH of Vonage broadband phone service

Use Western Union to Send Money to Michael Mahar!

Results: 1 listing matching "mahar, michael, PA, 17055"

[New Search](#) [Modify Search](#) [Printer-Friendly](#)

Michael Mahar
822 Anthony Dr
Mechanicsburg, PA 17050-2203
(717) 728-9314
[Find Neighbors](#)

[Map this location](#) [Area Code Map](#)

Save/Customize Listing in:
[My AddressBook or Outlook](#)
[E-mail Listing to Friends](#)

Local Time: 4:11 p.m.
Eastern Standard Time

 [Get More Information on Michael Mahar](#)

 [Search School Yearbooks in Mechanicsburg, PA](#)

 [Michael Mahar Public Records Available!](#)

 [Michael Mahar - Instant Background Check](#)

 [Michael Mahar - 20 Year Address History](#)

 [Looking for Michael Mahar's Email Address?](#)

Donner, Irah

From: FedEx [bit-bucket@dmz.fedex.com]
Sent: Tuesday, January 17, 2006 9:34 AM
To: undisclosed-recipients
Subject: Online FedEx Tracking - 792488980034

Eureka

Tracking number 792488980034

Reference 0103864.01101
Ship date Jan 13, 2006
Delivered to Residence
Destination Mechanicsburg, PA
Delivery date Jan 16, 2006 10:45 AM
Signed for by K.MAHAR
Service type Standard Envelope

Date/Time Location/Activity
Jan 16, 2006 10:45 AM Mechanicsburg, PA/Delivered
8:07 AM MIDDLETOWN, PA/On FedEx vehicle for delivery
7:52 AM MIDDLETOWN, PA/At local FedEx facility
Jan 14, 2006 7:57 AM MIDDLETOWN, PA/At dest sort facility
12:10 AM NEWARK, NJ/Arrived at FedEx location
Jan 13, 2006 11:36 PM NEW YORK, NY/Left origin
8:42 PM NEW YORK, NY/Picked up
5:42 PM /Package data transmitted to FedEx

Disclaimer

FedEx has not validated the authenticity of any email address.

RECEIVED
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MAR 02 2006

PTO/SB/17D (11-05)

Approved for use through 7/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FEE Under 37 CFR 1.17(f), (g) & (h) TRANSMITTAL <small>(Fees are subject to annual revision)</small>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 2px;">Application Number</td> <td style="width: 70%; padding: 2px;">09/512734-Conf. #5298</td> </tr> <tr> <td>Filing Date</td> <td>February 24, 2000</td> </tr> <tr> <td>First Named Inventor</td> <td>Michael J. SZESKO</td> </tr> <tr> <td>Art Unit</td> <td>3721</td> </tr> <tr> <td>Examiner Name</td> <td>J. Sipos</td> </tr> <tr> <td>Attorney Docket Number</td> <td>0103864.01101</td> </tr> </table>	Application Number	09/512734-Conf. #5298	Filing Date	February 24, 2000	First Named Inventor	Michael J. SZESKO	Art Unit	3721	Examiner Name	J. Sipos	Attorney Docket Number	0103864.01101
Application Number	09/512734-Conf. #5298												
Filing Date	February 24, 2000												
First Named Inventor	Michael J. SZESKO												
Art Unit	3721												
Examiner Name	J. Sipos												
Attorney Docket Number	0103864.01101												

Enclosed is a petition filed under 37 CFR 1.47 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 200.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees).

The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 08-0219
 petition fee under 37 CFR 1.17(f), (g) or (h) any deficiency of fees and credit of any overpayments
 Enclose a duplicative copy of this form for fee processing.

Check in the amount of \$ _____ is enclosed.

Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

§ 1.36(a) – for revocation of a power of attorney by fewer than all applicants.
 § 1.53(e) – to accord a filing date.
 § 1.57(a) – to accord a filing date.
 § 1.182 – for decision on a question not specifically provided for.
 § 1.183 – to suspend the rules.
 § 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
 § 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

For petitions filed under:

§ 1.12 – for access to an assignment record.
 § 1.14 – for access to an application.
 § 1.47 – for filing by other than all the inventors or a person not the inventor.
 § 1.59 – for expungement of information.
 § 1.103(a) – to suspend action in an application.
 § 1.138(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.
 § 1.295 – for review of refusal to publish a statutory invention registration.
 § 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
 § 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
 § 1.550(c) – for patent owner requests for extension of time in ex parte reexamination proceedings.
 § 1.956 – for patent owner requests for extension of time in inter partes reexamination proceedings.
 § 6.12 – for expedited handling of a foreign filing license.
 § 5.15 – for changing the scope of a license.
 § 6.25 – for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

§ 1.19(g) – to request documents in a form other than that provided in this part.
 § 1.84 – for accepting color drawings or photographs.
 § 1.91 – for entry of a model or exhibit.
 § 1.102(d) – to make an application special.
 § 1.138(c) – to expressly abandon an application to avoid publication.
 § 1.313 – to withdraw an application from issue.
 § 1.314 – to defer issuance of a patent.

03/03/2006 TLD111 00000033 000219

02 FC:1463 200.00 DA

09512734

 Signature

Irah H. Donner

 Typed or printed name

 Date

3/2/06

35,120

 Registration No., if applicable

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: 3/2/06

Signature: Irah H. Donner

(Irah H. Donner)